

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>TONYA CLAY, et al.</b>	)	<b>CASE NO. 1:18-CV-02929</b>
	)	
<b>Plaintiffs,</b>	)	<b>JUDGE SOLOMON OLIVER</b>
	)	
<b>vs.</b>	)	
	)	
<b>CUYAHOGA COUNTY, Ohio et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

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**DEFENDANTS CUYAHOGA COUNTY, ARMOND BUDISH, CLIFFORD PINKNEY,  
GEORGE TAYLOR, BRANDY CARNEY, AND ERIC J. IVEY’S MOTION FOR  
EXTENSION OF TIME TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFFS’  
COMPLAINT**

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Defendants Cuyahoga County, Armond Buddish, Clifford Pinkney, George Taylor, Brandy Carney, and Eric J. Ivey (County Defendants)<sup>1</sup> respectfully move this Court for a twenty-one-day extension of time until February 1, 2019, to answer or respond to Plaintiffs’ class action Complaint. This is the County Defendants first request for an extension of time, and is timely made as their response to Plaintiffs’ Complaint is currently due on January 11, 2019.

The County Defendants need this additional time to adequately investigate and respond to the plethora of allegations contained in Plaintiffs’ sixty-one (61) page Complaint. Plaintiffs filed their Complaint on December 21, 2018, and attempted service on the County Defendants that same day. But Plaintiffs incorrectly served the summons and Complaint on the Cuyahoga County Department of Law.<sup>2</sup> This is not proper service. Federal Civil Rule 4(j)(2) requires that Plaintiffs either deliver a copy of the summons and Complaint to the County’s “chief executive officer” or

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<sup>1</sup> All of the Defendants are sued in their official capacities and, therefore, only state claims against Cuyahoga County, Ohio.

<sup>2</sup> See Return of Service (Doc. #5).

serve the County in a manner permitted under state law for service of a “summons or like process.” Under Ohio Civ. R. 4.2, service on the County and its “offices, agencies, districts, departments, institutions or administrative units” is made “*by serving the officer responsible for the administration of the office, agency, district, department, institution or unit or by serving the prosecuting attorney of the county.*” [Emphasis added.] Accordingly, Plaintiffs have not properly served the County Defendants by simply delivering copies to the County’s Law Department.

Plaintiffs’ counsel never sought a waiver of service under Fed. Civ. R. Pro. 4(d). Counsel for the County Defendants alerted Plaintiffs’ counsel of this service issue on January 4, 2019, and offered to waive its objections to service if Plaintiffs agreed to send a waiver of service of summons. Plaintiffs refused. The County Defendants then requested a twenty-one-day extension to respond to Plaintiffs’ Complaint. Plaintiffs again refused. Plaintiffs’ counsel agreed only to a ten-day extension. Given the plethora of claims and allegations in Plaintiffs’ Complaint, a ten-day extension is insufficient to prepare an adequate response to Plaintiffs’ Complaint.

The County Defendants seek a twenty-one-day extension until February 1, 2019, to respond to Plaintiffs’ Complaint. County Defendants have offered to waive service of process. This will avoid unnecessary motion practice concerning the deficiencies in Plaintiffs’ service of process. Additionally, Plaintiffs will not have to go through the task or reissuing service to the County Defendants.

The County Defendants submit this request for extension of time in good faith and not for purposes of delay. Accordingly, the County Defendants respectfully request a twenty-one-day extension of time until **February 1, 2019** in which to respond to Plaintiffs’ Complaint.

Respectfully submitted,

MICHAEL C. O'MALLEY, Prosecuting  
Attorney of Cuyahoga County, Ohio

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*Attorney for Defendants Cuyahoga County, Armond  
Buddish, Clifford Pinkney, Eric J. Ivey, George  
Taylor, and Brandy Carney*

**CERTIFICATE OF SERVICE**

An electronic copy of the foregoing has been emailed to all counsel of records on this 7<sup>th</sup>  
day of January, 2019. Additionally, service on the following Defendants has been sent via regular  
U.S. Mail:

MetroHealth System  
c/o Chief Legal Officer, MetroHealth System  
2500 MetroHealth Drive  
Cleveland, Ohio 44109

Thomas Tallman, Medical Director  
c/o Chief Legal Officer, MetroHealth System  
2500 MetroHealth Drive  
Cleveland, Ohio 44109

Brendan D. Healy  
Brendan D. Healy (0081225)  
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